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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,930	02/15/2001	Rudolf Gilmanshin	C00989/70032	1457

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EXAMINER

BRUSCA, JOHN S

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/783,930	Applicant(s) GILMANSHIN ET AL.	
	Examiner John S. Brusca	Art Unit 1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 71-104 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 71, 72, 75-79, 85-91 and 94-98 is/are rejected.
- 7) ☒ Claim(s) 73, 74, 80-84, 92, 93 and 99-104 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10/17/2003 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The objection to the specification in the Office action mailed 16 July 2003 is withdrawn in view of the amendment filed 17 October 2003.
2. The disclosure is objected to because of the following informalities: The specification contains a table of contents before page one which lists page numbers that would not be relevant to the issued patent should the instant application be allowed. Deletion of the page is required.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 71, 72, 75-79, 85-91, and 94-98 are rejected under 35 U.S.C. 102 (b) as being anticipated by Eigen et al.

The claims are drawn to computers and programs that execute analysis of detection of multiple labeled extended objects by use of an autocorrelation function. In some embodiments the detection of objects is time dependent, the objects are DNA molecules, and the detection is by laser optics

Eigen et al. reviews fluorescence correlation spectroscopy. Eigen et al. shows use of autocorrelation functions to detect labeled extended objects on page 5742 and figure 4. Eigen et al shows detection of DNA molecules in figures 4 and 5. Eigen et al. shows a computer and laser

optic apparatus in figure 3 that executes the taught fluorescence correlation spectroscopy method.

5. Applicant's arguments filed 17 October 2003 have been fully considered but they are not persuasive. The applicants state that Eigen et al. describes detection of objects rather than analysis of extended objects. However the claims do not have limitations that avoid anticipation by Eigen et al. The claims merely require that an apparatus can analyze impulses from an extended object. The specification does not define extended objects explicitly, but does exemplify extended objects as DNA. Eigen et al. discloses analysis of DNA and therefore meets the limitations of the claimed invention. The claims do not require that the apparatus resolves signals within an extended object.

Allowable Subject Matter

6. Claims 73, 74, 80-84, 92, 93, and 99-104 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

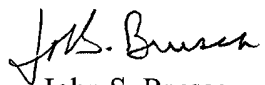
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Brusca whose telephone number is 703 308-4231. The examiner can normally be reached on M-F 8:30-5:00. On approximately 12 January 2004 Art Unit 1631 will move to the new USPTO Alexandria, VA facility. At that time the phone number of the examiner will change to (571) 272-0714. Phone calls to the previous phone number will be referred to the new phone number for 60 days after the move date.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 703 308-4028. The fax phone number for the organization where this application or proceeding is assigned is 703 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0196.


John S. Brusca
Primary Examiner
Art Unit 1631

jsb